

The 'what ifs?' of mental health job retention

Every job retention case is unique and sometimes, even with the best will in the world, things don't go according to plan. Set out below are some of the common dilemmas and pitfalls or the times when some of the parties just refuse to 'play'.

❖ **The employer refuses to engage with you**

1. If you are working closely with the G.P. and local mental health services (and with their authority), you can ensure that all Psychiatric/Medical Reports endorse your work and recommendations. This information should then be sent to Occupational Health for them to action. Remember, failure to accept 'specialist advice' is regarded as discriminatory under the D.D.A.
2. Channel your advice and support through a Trade Union Rep, who can act on your behalf.
3. This problem may have arisen because you have not explained clearly your role as Case Manager – and how you are seeking to provide a service to the employer as well. This information should initially be in writing, followed up with a phone call to the HR/Line Manager and other key players. A referral letter from the G.P. can also be important; a consent letter from your client giving permission to talk to all parties is, of course, essential.
4. Remember that first impressions – even down to your appearance – will either uphold or undermine your credibility. Impartiality and professionalism are key elements in engagement.

❖ **The employer feels that your report is biased against them**

1. It is absolutely essential that a thorough work-place assessment be carried out. Don't take the client's word for it. Remember 'one story is good until another is told'. On performance issues, do gain a sight of staff appraisals and supervisions notes. Clients can be unreliable witnesses at times, particularly when they are interpreting things over-emotionally or with an unnecessary negative bias. Do get Line Manager's and colleagues' views of relevant issues. Most problems of this nature can be avoided if you do this.
2. Good supervision of Case Managers can help identify situations where your 'over-identification' with the client is clouding your judgement.
3. Sometimes the employer is simply refusing to accept the truth about their work-culture – fear of litigation is often a factor. The Case Manager has a duty to 'tell it as it is', without 'fear or favour'. If you have unearthed some organisational issues, which may prove compromising to the employer, it is best to informally talk them through with H.R. prior to writing your report; their response can then be incorporated into the report. Remember you are always looking for a 'win win' outcome. Anything less will be unsatisfactory to both parties, although you need to make it clear that compromise on both sides may be necessary!

❖ **Your client feels your report is biased against them**

1. This issue can occur when your client's response to stress is one of 'fight not flight'.
2. Your assessments can identify a history of conflict in relationships and a tendency to 'scapegoat' in challenging situations.
3. On the theme of; 'if we do what we've always done – we get what we've always got'; we must help our client to address these issues therapeutically.
4. Again, talk the situation through with your client before consigning it to print and agree if possible a way of resolving the issue.
5. In such cases, it is essential for your client to trust you and your discernment. Your role is not to defend them at all cost but to provide a 'reality check' where necessary. If you do not do this, not only will your professional integrity be compromised, but also you will set up your client for failure and subsequently leave them vulnerable to even greater psychological damage. These cases can often be resolved through mediation – once your client has developed some insight and emotional resilience.
6. Good supervision is essential to counter any lack of objectivity on your part. In such cases, it may be necessary to refer on the client to another colleague.

❖ **Your client doesn't want you to talk with their employer**

1. Again you can work through a Trade Union Rep., as set out above.
2. You must explain to your client that it is essential for you to get the whole picture, if you are going to help them. You will be compromising your professional standards to do otherwise.
3. Trust has to be earned in some situations, and it may be an interim solution that you agree initially to offer support to just your client first, agreeing not to make employer contact, but helping them to regain some degree of resilience. It is often then the case that once you have developed a therapeutic alliance with the client, and they are seeing things more clearly, they will understand and agree to you contacting their employer.
4. If your client insists on dealing directly with the employer then your role can be to empower and advise your client on appropriate strategies. You need to assess clearly whether your client has the emotional resilience to carry out successful self-advocacy. If not, then (2) applies.

❖ **Occupational Health refuses to acknowledge your credibility or role as Case Manager**

1. Channel your reports through G.P. or mental health services whose reports will carry more 'weight' with OH physicians. Clinicians such as psychiatrists are often amenable to you drafting a letter setting out beneficial adjustments, and then underlining such advice for OH to consider.

2. Such problems can be avoided by the introduction process set out above ('Employers (3)'). Explain, that you are there to be his 'eyes & ears'; through conducting objective workplace assessments etc. and providing an effective channel of communication with the client's G.P.

❖ **Mediation is not appropriate for your client at the time it is recommended by the employer.**

1. Mediation should not proceed if, in your opinion, your client is not sufficiently emotionally resilient to benefit from the process. Your client should have developed a good understanding of how they come across to others and gained an understanding of their own psychological condition.
2. Mediation should never take place whilst grievance or disciplinary actions are current. If these processes are suspended then mediation can still take place.
3. If the employer insists on a report to be sent to Human Resources. Mediation should be confidential between the parties. As each case is unique, an argument can be made for information to be passed to external people, with the agreement of both parties, should this disclosure benefit the mediation process.
4. If you believe that the employer is using it as a tactic without goodwill towards your client or their adversary.

❖ **There has been a grievance process and/or litigation and your client is unsure of the psychological impact it will make when they resume work; particularly when some colleagues were witnesses against them and some for them.**

1. Evidence shows that employees who take out successful grievances against their colleagues or Line Managers will often leave the organisation within a year of making the complaint. In such cases post-grievance mediation can be essential in helping colleagues heal their differences and work productively together.

❖ **The employer refuses to allow you to support your client in grievance disciplinary procedures, stating that only colleagues or trade union representatives can attend.**

1. A letter from your clients G.P. or Psychiatrist stating that attending such a meeting without the emotional support of the Job Retention Worker could be psychologically damaging to their patient. In such cases this should be considered as 'reasonable adjustments' as described in the D.D.A.

❖ **Your client's Trade Union Solicitors do not believe there are sufficient grounds for a legal claim against their employer**

If you and your client still believe you have a good case, then you can advise them to seek the help of an Employment Adviser at the Citizens' Advice Bureaux, a trainee barrister (whose services will be free) or even free legal help through Home Insurance (get them to look at their plan!).

1. Do remember that a written 'Back to Work' Report based on your assessments is vitally important in all cases of litigation and grievance.
2. Do encourage your client to complain to their Trade Union if they feel that the legal advice offered has been unsatisfactory.

❖ **Your client wants to leave their job and although they may have good grounds for litigation, they do not want the stress of taking their case to Employment Tribunal**

1. If there is a 'tacit' agreement by the employer that irregularities have occurred; then it may be possible to negotiate a 'compromise agreement'.
2. The employer should pay for a solicitor to act on your client's behalf to draw up a contract (with the employer's solicitors).
3. The compensatory settlement with your client should include:
 - a. Some financial recompense of the psychological damage and personal injury incurred (perhaps as a result of over-loading or bullying), and a figure that reflects the further recovery time needed before applying for a new job.
 - b. Length of service, monthly salary, and outstanding leave should all be taken into account.
 - c. Cost of training and time for 'job search processes' should be taken into account. Some employers agree to pay for several sessions with a career coach (more common with executives).
 - d. Details of return of property – e.g. mobile phone, company car will be included. It maybe possible to include the company car in the agreement or at least the possibility of purchasing this car at a greatly reduced price. This would be preferable to your client having to buy a new car.
 - e. Within the 'agreement' will be a 'no blame' clause, which means no further action may be taken by your client. A compromise agreement is a once and for all settlement. They will also have to agree to keep the agreed payment confidential. Also included would be a commitment by the employer to provide a positive job reference.

❖ **Your client has been told by their GP that there is a six-month waiting list for the psychological therapy you have recommended or feel they need.**

1. Ascertain from the HR manager whether your client's employer has access to any privately purchased employee wellbeing support, such as an EAP (Employee Assistance Programme). Face to face counselling and sometimes CBT is available through such services. It is surprisingly common for employees to remain unaware that such services even exist.
2. If you really believe that *not* accessing the psychological therapy will present a significant barrier to returning to work, it may be worth recommending to an employer (HR manager)

that they consider funding the client to access this privately. As a case manager, this would come within the auspices of your role to source a local therapist. You need to ensure they are suitably qualified, agree fees for up to 6 sessions, and are willing for your client to have a free face to face initial meeting to discuss issues and ensure compatibility – your client needs to feel empowered and comfortable with the therapist. Brief strategic therapies such as solution focused counselling are far preferable to psychoanalytic psychotherapy for most clients' issues, and discourage dependency.

3. Explore alternative, reliable third sector sources of psychological support in the community: most areas have charities/ mental health/ counselling organisations that offer a limited number of sessions. Do an Internet search of mental health specialist services or ask at the CAB.
4. The Case Manager may well find that on completing the assessment process, the necessity for specialist therapist is alleviated. Your client can also significantly benefit from self-management techniques including improved diet, physical exercise, and relaxation. 'Self-help' books and respected Internet sites can also be helpful in better explaining their condition and ways of promoting recovery. Work-place adjustments will also reduce the causes of work place stress.

❖ **A referral has been made not for Job Retention but to assess whether someone should be retired on the grounds of ill-health – should I accept this case?**

1. Yes!
2. Often the employer, without expert advice, has suggested this route because they simply don't know what else they can do.
3. The employee themselves may feel so demoralised that they have chosen this route – particularly if their Line Manager has no confidence in their ability to perform in their job role.
4. By conducting your comprehensive assessments, you may well be able to identify the adjustments that will make a return to work feasible either to their current post or redeployed to another work area.
5. A mediation process could assist in mending broken relationships and restore confidence.
6. If points 3-5 do not work out then you can support your client to seek another career path, bearing in mind that with 'ill-health' retirement the individual would have to seek employment in another work area entirely or forfeit their retirement pension.
7. If your client is a union member the regional organiser could lead in the negotiations to secure ill health retirement – you can make sure that all supportive medical reports are channelled to Occupational Health.

❖ **The clinicians working with your client think that you are divulging too much information to the employer and are worried about whether the information is being stored correctly.**

1. Reassure clinicians that all information is retained and disclosed in accordance with the Data Protection Act 1998.
2. Always inform small businesses of their legal obligations and be able to provide them with a copy of D.P.A. Legal Guidance when necessary.
3. Explain to clinicians the importance of appropriate disclosure (on a needs to know basis) in order to put in place reasonable adjustments in the 'back to work' plan.
4. Advise clients who have been in mental health services for a long time the problems they could face by 'over disclosure'.
5. Job Retention Workers should always place the emphasis on 'function' rather than diagnosis and that all information given to employers is in accessible language – something that not all clinicians do!
6. Inform clinicians that no information is given to anyone without your client's full permission
7. Remember that information given to Occupational Health is not regarded (under the D.D.A.) as having informed the employer.
8. On request your client can gain access to all information about them stored where ever.

This list is not exhaustive but is based on the experience of practioners in the Job Retention Network and will, in the course of time, be added to.

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